



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 10-90; FCC 16-143]

Connect America Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts tailored service obligations for Alaska Communications Systems (ACS), a carrier serving a non-contiguous area that elected to receive nearly \$20 million annually in Connect America Phase II frozen support amounts in lieu of model-based support.

DATES: Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, except for the certification in paragraph 33 which contains a new information collection requirement that will not be effective until approved by the Office of Management and Budget. The Commission will publish a document in the Federal Register announcing the effective date for that certification.

FOR FURTHER INFORMATION CONTACT: Alexander Minard, Wireline Competition Bureau, (202) 418-7400 or TTY: (202) 418-0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in WC Docket No. 10-90; FCC 16-143, adopted on October 24, 2016 and released on October 31, 2016. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW, Washington, DC 20554, or at the following Internet address: http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db1031/FCC-16-143A1.pdf

I. INTRODUCTION

1. In this Order, the Commission adopts tailored service obligations for Alaska Communications Systems (ACS), a carrier serving a non-contiguous area that elected to receive nearly

\$20 million annually in Connect America Phase II frozen support amounts in lieu of model-based support. The Commission finds these obligations are in the public interest and will advance the Commission's goal of ensuring universal availability of modern networks capable of providing voice and broadband service. Specifically, ACS will receive Phase II frozen support for a 10-year term and be required to offer voice service and broadband service at the same speed, latency, usage and pricing metrics as established for Phase II model-based carriers to at least 31,571 locations, primarily in census blocks identified as high-cost that are unserved by unsubsidized competitors, with limited exceptions. These service obligations strike the appropriate balance of ensuring Alaska consumers receive broadband service while also allowing ACS the flexibility to provide that service in a way that is logical, maximizes its network and is reasonable considering the unique climate and geographic conditions of its service territory.

II. DISCUSSION

2. As described below, the Commission adopts specific service obligations for ACS as a non-contiguous carrier electing to receive Phase II frozen support. The service obligations established today maintain many of the same public interest standards as those established for model-based price cap carriers, but allow flexibility in both buildout locations and the deployment schedule to account for the distinctive geographic and climate challenges of building and providing voice and broadband service in Alaska. By adopting these standards today, the Commission establishes clear deadlines for planning and deploying new broadband services to consumers in Alaska, as well as clear obligations to maintain existing service. The Commission finds these service obligations are in the public interest as ACS will provide advanced communication service to at least 31,571 locations.

3. Speed. The Commission adopts 10/1 Mbps as the minimum broadband speed requirement for ACS's Phase II broadband deployment.

4. ACS stated in its comments in response to the April 2014 Connect America FNPRM, 79 FR 39196, July 9, 2014, that it intends to provide speeds of at least 10/1 Mbps in its service territory and did not request a lesser speed in any location. In fact, ACS stated that it prefers a 10/1 Mbps service

obligation, and planned its proposal accordingly. ACS explains that providing 10/1 Mbps service is more costly, however, than providing 4/1 Mbps service and requests that the 10/1 Mbps standard only be adopted if a ten-year term of support is adopted.

5. In the December 2014 Connect America Order, 80 FR 4446, January 27, 2015, the Commission adopted 10/1 Mbps as the minimum broadband speed for all ETCs subject to broadband performance obligations. Although the Commission has determined that 25/3 Mbps reflects “advanced” capabilities, the Commission has explained that “[b]y setting a lower baseline for Connect America funding, the Commission establishes a framework to ensure a basic level of service to be available for all Americans, while at the same time working to provide access to advanced services.” Based on the record before us, the Commission sees no reason to apply a different standard to ACS. Accordingly, the Commission adopts 10/1 Mbps as the minimum broadband speed requirement for deployment of broadband services to a specified number of locations in the ACS service territory and as a condition of receiving frozen support. While this represents the minimum, consistent with our recent decision to improve oversight over the outcomes achieved by rate-of-return carriers, ACS will also report to us the number of locations that will receive 25/3 Mbps service so that the Commission can track progress over time in achieving higher speeds.

6. Latency. The Commission adopts a roundtrip provider network latency requirement of 100 ms or less for ACS’s Phase II broadband deployment.

7. In the April 2014 Connect America FNPRM, the Commission proposed that non-contiguous carriers be required to meet a roundtrip provider network latency of 100 ms or less. The Commission proposed that non-contiguous carriers choosing frozen support conduct their latency network testing from the customer location to a point at which traffic is consolidated for transport to an Internet exchange point in the continental United States. The Commission also proposed exempting non-contiguous carriers from the latency requirements to the extent the carriers rely exclusively on satellite backhaul facility and certify annually that no terrestrial backhaul options exist.

8. ACS stated in its comments that it intends to meet the Phase II parameters for roundtrip latency of 100 ms or less. Further, ACS confirms that none of the areas where it proposes to deploy new broadband rely exclusively on the use of satellite backhaul to deliver service. Accordingly, there is no reason in the record before us to relax the latency standard for ACS' proposed Phase II deployment. The Commission adopts the same requirement as implemented by the Bureau for model-based carriers in the Phase II Service Obligations Order, 78 FR 70881, November 27, 2013. Specifically, ACS must certify that 95 percent or more of all peak period measurements (also referred to as observations) of network round trip latency are at or below 100 ms. The measurements should be conducted over a minimum of two consecutive weeks during peak hours for at least 50 randomly-selected customer locations within the census blocks for which the provider is receiving frozen support using existing network management systems, ping tests, or other commonly available network measurement tools. ACS should conduct its latency network testing from the customer location to a point at which traffic is consolidated for transport to an Internet exchange point in the continental United States. The Commission adopts this latency standard for deployment of broadband services in the ACS service territory and as a condition of receiving of frozen support.

9. Usage Allowance. The Commission concludes that ACS will be required to provide a usage allowance that evolves over time to remain reasonably comparable to usage by subscribers in urban areas, similar to the approach adopted for price cap carriers.

10. In the April 2014 Connect America FNPRM, the Commission proposed that non-contiguous carriers continuing to receive frozen support be subject to the same usage allowance as that specified by the Bureau for price cap carriers receiving model-based support. Under the approach previously implemented by the Bureau for Phase II model-based support, price cap carriers must either provide a usage allowance based on the nationwide annual urban rate survey, or a usage allowance consistent with the usage level of 80 percent of their own broadband subscribers including those subscribers that live outside of Phase II-funded areas, subject to a 100 gigabyte (GB) per month floor. The Commission sought comment on whether – in light of the potentially unique circumstances in non-

contiguous areas – it would be appropriate to relax the 100 GB minimum usage allowance for non-contiguous carriers and instead allow them to meet their usage requirements based on a comparison to 80 percent of their entire subscriber base. The Commission also proposed exempting non-contiguous carriers from the usage requirements to the extent the carriers rely exclusively on satellite backhaul facility and certify annually that no terrestrial backhaul options exist.

11. ACS stated in its comments that it intends to meet the Phase II obligations for usage and did not suggest any relaxation of the usage requirement was necessary. ACS also later explained that it is not its practice or policy to impose a data usage cap on its customers, and ACS has no intention of limiting usage in the future. ACS proposes to be subject to the same usage standard as that required for those carriers accepting the offer of model-based support.

12. Earlier this year, the Bureau announced that, based on the most recent publicly available Measuring Broadband America data, 80 percent of cable subscribers nationwide are using 156 GB, and it therefore set the 2016 minimum usage allowance for eligible telecommunications carriers subject to broadband public interest obligations at 150 GB per month. The Commission concludes that ACS as a non-contiguous carrier should be subject to the same general approach as implemented by the Bureau for the carriers that accepted model-based support. Like the price cap carriers receiving model-based support, the Commission requires ACS to offer at least one service option that provides a usage allowance that meets or exceeds the usage level of 80 percent of cable or fiber-based fixed broadband subscribers, whichever is higher, according to the most current publicly available Measuring Broadband America usage data. This minimum will be announced annually by the Bureau. Alternatively, ACS may offer a usage allowance consistent with the usage level of 80 percent of its own broadband subscribers, including those subscribers that live outside of Phase II-funded areas, subject to a 150 GB floor. The Commission concludes it appropriate to update the minimum floor that ACS will be subject to in light of the more current information regarding usage trends. The Commission expects that ACS should have no problems meeting this requirement given its representation that it does not currently impose a usage limit on its customers or have any intent to do so in the future.

13. Reasonably Comparable Rates. ACS will be subject to the same obligation as all other recipients of high-cost universal service support to provide voice and broadband service at reasonably comparable rates.

14. In the April 2014 Connect America FNPRM, the Commission proposed to require non-contiguous carriers electing frozen support to offer both voice and broadband service at rates reasonably comparable to those services offered in urban areas. The Commission proposed the same two options for showing reasonable comparability as were adopted for model-based carriers: compliance with reasonable comparability benchmarks or a certification by the carrier that it offers the same or lower rates in rural areas as it does in urban areas. The Commission sought comment on whether non-contiguous carriers would face any challenges meeting this requirement. ACS stated in its comments that it does not anticipate challenges in meeting the statutory requirement to provide voice and broadband service at rates reasonably comparable to those offered in urban areas.

15. In a separate order, the Commission recently directed the Wireline Competition Bureau to establish an Alaska-specific reasonable comparability benchmark using data from its urban rate survey or other sources, as appropriate. The Commission will provide ACS the same two options for demonstrating compliance with this statutory requirement: by meeting the Alaska-specific benchmark or offering the same or lower rates in rural areas as it does in urban areas. As with model-based carriers, ACS will be required to certify annual compliance with this requirement as explained further below.

16. The Commission adopts a 10-year term of support for ACS's Phase II frozen support (2016-2025). As noted above, in the April 2014 Connect America FNPRM, the Commission sought comment on whether to specify a five-year term for those non-contiguous carriers that elect to receive frozen support, and whether there is a need to modify the term of support for such non-contiguous carriers. The Commission sought comment on any specific extenuating circumstances in non-contiguous areas that would require extending the term of frozen support for longer than five years.

17. ACS stated in its proposal that it will require a 10-year term of support to complete buildout to the stated number of locations and that buildout within five years is impossible. ACS

explained that due to the harsh weather conditions of Alaska it is forced into a shortened construction season of three to four summer months throughout its service territory and thus a slower pace of progress. Further, ACS states it is challenged by decreased availability of experienced and qualified professionals knowledgeable in designing and deploying these services in Alaska - extending the time required to plan for deployment. Also, due to its remote northern location and unique construction limitations, ACS claims that it also confronts higher costs for broadband deployment. Ultimately, ACS argues these factors together require a 10-year term of support.

18. The Commission recognizes the climate and geographic challenges ACS faces in serving Alaska and find that adopting a 10-year term of support for ACS is in the public interest. While the Commission expects ACS to use its best efforts to expedite deployment, the Commission recognizes the shortened construction season and limited availability of experienced personnel is a unique limitation for ACS in Alaska that could slow the pace of buildout. Accordingly, the Commission adopts a 10-year term of support for ACS as a non-contiguous carrier electing Phase II frozen support, which will run from January 1, 2016, and end on December 31, 2025. For administrative reasons, the Commission finds it necessary to conform the term of support to the calendar year, to align reporting and other monitoring activities with that of other carriers. As discussed more completely below, ACS will be required to report its proposed list of locations by October 1, 2018. In year eight, the Commission expects it will conduct a rulemaking to determine how support will be awarded to serve these locations after the end of the ten-year period.

19. In the April 2014 Connect America FNPRM, the Commission sought comment on the specific build out obligations that non-contiguous carriers receiving frozen support would have in those census blocks that do not currently have broadband service meeting the Commission's requirements. Specifically, the Commission asked whether non-contiguous carriers receiving frozen support should be required to deploy voice and broadband-capable networks and offer services meeting the adopted performance metrics to all locations in those funded areas, consistent with the state-level commitments required of carriers receiving model-based support. In the alternative, the Commission asked whether

these carriers should be allowed to serve some subset of locations within their respective service areas where the average cost equals or exceeds the funding benchmark established by the Bureau. Lastly, the Commission asked whether they should also be required to extend broadband-capable networks to locations in census blocks determined by the model to be above the extremely high-cost threshold.

20. ACS elected to receive Phase II frozen support for its entire service territory, and therefore, none of the census blocks in its service territory are eligible for the Phase II competitive bidding process. Below, the Commission addresses the specific geographic parameters for ACS' provision of voice and broadband service within its existing designated service territory and provide ACS with flexibility in its broadband deployment to account for the unique nature of serving Alaska. The Commission also provides ACS with forbearance relief consistent with the relief it provided other price cap carriers.

21. Number of Locations. The Commission requires ACS to offer voice and broadband service to a minimum of 31,571 locations that are not served by an unsubsidized competitor at 10/1 Mbps or better to meet its Phase II obligations, subject to the flexibility described below.

22. ACS proposes to use Phase II frozen support to offer service to a minimum of 26,000 locations that are not served by any provider, which would occur in those census blocks that were identified as high-cost by the cost model with certain exceptions discussed below. Initially, ACS proposed to offer service to 29,418 locations but later revised that number to 26,000. ACS explains that its initial calculation was based on CAM v4.1.1 and the revision was due to a recalculation using newer data from CAM v4.2, which excluded locations served by subsidized competitors. ACS then adjusted its initial estimate to exclude the off-road census blocks in the Alaskan Bush that ACS does not propose to serve with broadband at this time.

23. While ACS proposes to establish a deployment obligation with a minimum number of locations, it does not provide a specific list of proposed census blocks or locations at this time. Instead, ACS suggests that two years will be necessary for planning, coordination and identifying the total number and precise locations for buildout. ACS claims that it needs this time to “fully explore the most efficient

options for network infrastructure deployment.” Once the pre-planning and coordination stage is completed, ACS intends to submit a list to the Commission of its proposed locations.

24. Based on our review of June 2015 FCC Form 477 data for the number of high-cost locations, the Commission finds that requiring ACS to serve 31,571 locations is reasonable, given the other flexibility provided in this Order. While the Commission hopes that ACS will find after it engages in this planning process that it is possible to offer broadband services to more than 31,571 locations with the amount of funding provided, the Commission adopts this number as a strict minimum. Additionally, while ACS has proposed to select these locations using coverage data from the 2014 National Broadband Map, the Commission instead requires ACS to select its locations in blocks not served by a qualifying competitor using the June 2015 FCC Form 477 data. The Commission also adopts a challenge process for locations in blocks where another provider is reporting service, and for those blocks it requires ACS to utilize more recent publicly available data. This will ensure that support is targeted appropriately to those areas where there are no other providers offering broadband service meeting the Commission’s requirements for high-cost support.

25. Consistent with the approach taken with respect to other price cap carriers, the Commission does not dictate which specific locations ACS must serve within its eligible areas, so long as it provides voice and broadband service meeting the obligations described in this Order to the minimum number of required locations, subject to the specific parameters adopted below. The Commission emphasizes, however, that it will hold ACS to its commitment to continue providing voice service throughout the Phase II term of support to all locations where it currently provides voice service, including those in the Alaskan Bush.

26. Partially-served Census Blocks. In satisfaction of its Phase II deployment obligations, the Commission will allow ACS the flexibility to deploy to up to 7,900 locations unserved by any provider within census blocks that also have locations served by an unsubsidized competitor, which the Commission refers to as “partially served census blocks,” subject to the conditions described below.

27. In the April 2014 Connect America FNPRM, the Commission proposed that non-contiguous carriers receiving frozen support not use such support in any areas where there is a terrestrial provider of fixed residential voice and broadband service that meets our Phase II performance requirements. However, the Commission also asked whether allowing substitution in partially-served census blocks could enable more effective network deployment and bring service to unserved consumers in those partially-served census blocks. In the December 2014 Connect America Order, the Commission declined to adopt the flexibility for non-contiguous carriers receiving frozen support to use support in any census block where there is a competitor providing service of 10/1 Mbps or greater to at least one location within the census block, and instead required them to relinquish the relevant Phase II frozen support for those areas. At the same time, the Commission acknowledged that all parties potentially interested in Connect America support have an interest in building economically efficient networks, which may not neatly align with census boundaries, and the Commission encouraged stakeholders to work together towards proposals that help ensure unserved consumers in partially served census blocks are not left behind.

28. ACS requests the flexibility to substitute up to 25 percent of its eligible locations with unserved locations in partially-served census blocks. ACS explains these substitutions are necessary, because even though the census block is treated as served, due to the geography and topography of the census block, some specific locations within a census block are not in fact served by any carrier. Compared to other states, Alaska has relatively large census blocks. ACS argues it would be more logical and economically efficient for ACS to serve these “stranded” customer locations, because in many cases these locations are very near or contiguous to ACS service territory and are clearly not easily served by the competitor given the particular geography of the census block. ACS proposes a public challenge process to ensure the substituted locations are actually unserved. ACS promises the substitutions would be made conservatively and would be limited to unserved locations in eligible census blocks in outlying areas – primarily surrounding Fairbanks and on the Kenai Peninsula.

29. In the USF/ICC Transformation Order, 76 FR 73830, November 29, 2011, the Commission decided to target Phase II support to those census blocks that are not served by an unsubsidized competitor. However, the Commission did not foreclose other ways of supporting high-cost locations within partially-served census blocks. Where, as here, there are physically isolated and distinct unserved locations within large census blocks, the Commission is willing to implement an approach that allows it to extend service to unserved consumers, while balancing our policy goal of not providing high-cost support to overbuild locations that are already served by another competitor. The Commission has recognized in other contexts that the fact a competitor reports service on FCC Form 477 does not mean it serves all of the locations within a census block. Therefore, the Commission finds that it is in the public interest to permit ACS to substitute unserved locations in partially-served census blocks for eligible model-based locations, because such locations may not otherwise receive service from ACS or a competitor. However, as suggested by ACS, the Commission limits ACS to no more than 7,900 unserved locations in partially-served census blocks. The Commission also requires ACS to certify that it does not itself serve the locations in such blocks at the time it submits its list, no later than October 1, 2018.

30. Challenge Process. The Commission will conduct a challenge process to ensure that all of the selected locations in partially served blocks in fact are unserved by any provider at 10/1 Mbps or better. The coverage data utilized in the cost model was State Broadband Initiative data as of June 2013. The Commission finds that it is in the public interest to ensure that the locations selected are unserved by any fixed, terrestrial competitors, including those that currently receive high-cost universal service support, before allowing ACS to build and deploy services to those locations. ACS suggested a format for conducting challenges for partially-served census blocks similar to the Phase II challenge process. The Commission concludes the process can be streamlined by using an approach similar to that previously adopted by the Commission for reporting changes to planned deployment for Phase I incremental support. Under this approach, the Commission requires ACS to submit its proposed list of geocoded locations in partially served census blocks as soon as possible, but no later than October 1, 2018, along with certification of notice filed on any carrier that reports service in the relevant census

block according to the most recent FCC Form 477 data available at that time, the Regulatory Commission of Alaska, and any relevant Tribal government. To ensure that the public is aware of the proposed deployment plan, the Commission directs the Bureau to issue a public notice announcing the proposed deployment plan, census blocks and geocoded locations. This will give any existing provider the opportunity to notify ACS and the Commission that the provider already serves the identified census blocks and specific locations with service meeting the Commission's standards for an unsubsidized competitor, thereby furthering the Commission's objective of not supporting areas where there are competitors already offering service. The Commission concludes that it is reasonable and most efficient to provide potential existing providers 45 days from the release of the Bureau's public notice to file a response notifying ACS and the Commission that they are currently providing service meeting the requisite requirements to the locations selected by ACS. Any identified locations that receive no response will automatically be deemed eligible for deployment with Phase II frozen support. The Commission delegates to the Bureau the authority to implement this process consistent with prior delegations regarding other challenge processes.

31. Non-High-Cost Census Blocks. The Commission adopts the additional flexibility for ACS to deploy to unserved locations within census blocks that were not identified as high-cost by the adopted version of the CAM, subject to the several limitations described below.

32. ACS requests the flexibility to substitute up to 10 percent of its eligible locations with unserved locations in census blocks that were not deemed high-cost by the cost model. ACS argues that the cost model did not accurately capture all of the costs of serving particular census blocks in Alaska, and excluded unserved areas and customers that are truly rural and where the cost to deploy service is in fact high. For example, ACS explains there are several instances where all the census blocks surrounding a location are identified as high-cost, i.e., eligible for support, but the middle "land locked" census block is not identified as such. ACS argues these census blocks are not served today, leaving hundreds of stranded customers without broadband service or the opportunity to be served in the future. ACS argues that it makes good policy and economic sense to let ACS deploy services to the unserved non-high-cost

locations that can efficiently be reached during deployment to the eligible high-cost locations. ACS suggests a 10 percent cap on such substitutions.

33. The Commission grants ACS the flexibility to count towards its service obligation up to 2,714 locations in census blocks identified by the model as low-cost, so long as those locations are unserved with broadband by either ACS or a competitor, and the “low-cost” census block is immediately adjacent to high-cost census blocks. The Commission finds that it is in the public interest to permit ACS to use its Phase II frozen support to deploy to these unserved locations given the unique geographic characteristics of Alaska. However, as suggested by ACS, the Commission finds a limitation is appropriate. The model calculates that there are 2,714 low-cost, unserved, on-road locations, using June 2015 FCC Form 477 data. As such, the Commission finds it is reasonable and in the public interest to limit ACS to no more than 2,714 location substitutions in such census blocks that are not identified as high-cost by the model. Further, for each location ACS substitutes under the terms of this flexibility, the Commission requires ACS to certify that deployment to that location was, in fact, high cost. Specifically, the Commission requires ACS to certify that the capital expenditures (capex) it incurs to build out to each location within a qualifying “low-cost” census block was at least \$5,000. According to the model, the average capital expenditure for high-cost locations in Alaska is at least \$5,007.95, so the Commission concludes that ACS should only be able to count towards its total these locations if they in fact require at least this amount of capex to newly serve the location. This certification will be due along with the annual location report. ACS may be required to produce documentation regarding its actual capex for such locations to support its certification when USAC validates completion of its deployment obligations or in the course of an audit. Any location that cannot meet this certification will not be counted toward the minimum location requirement.

34. Forbearance. The Commission takes the opportunity today to adopt the same forbearance for ACS as it did for other price cap carriers in the December 2014 Connect America Order. As the Commission did in that order and for the same reasons, it now concludes that it is in the public interest to forbear, pursuant to section 10 of the Communications Act of 1934, as amended (the Act) from enforcing

a federal high-cost requirement that ACS offer voice telephony service throughout its service territory pursuant to section 214(e)(1)(A) in three types of geographic areas: (1) census blocks determined by the adopted cost model to be low-cost, (2) census blocks served by an unsubsidized competitor, to the extent ACS does not identify locations within partially-served census blocks to meet its deployment obligation, and (3) in census blocks where another ETC is receiving high-cost support to deploy modern networks capable of providing voice and broadband to fixed locations. ACS will be able to avail itself of this forbearance upon the conclusion of the Bureau's review of ACS's submitted locations, and finalization of the specific census blocks containing locations to be served.

35. Phase I Obligations. ACS seeks clarification regarding the relationship between Phase I and Phase II obligations with regard to the issue of upgrading facilities. ACS asks whether it can use Phase II frozen support to upgrade locations built in Phase I that are currently served with 4/1 Mbps broadband, and are in census blocks eligible for support in Phase II. The Commission finds it is not in the public interest for ACS to use Phase II funding to upgrade Phase I locations. Consistent with Commission goals of universal service, the Commission finds it is an economically inefficient use of funds at this time to provide support to deploy service to a location and then provide support to upgrade that location while other locations remain unserved entirely. Instead, the Commission's goals are better served by reaching new customers that do not currently have any advanced communication. Therefore, the Commission concludes it is not in the public interest to allow ACS to use its Phase II frozen support funds to upgrade the existing Phase I locations served with 4/1 Mbps to 10/1 Mbps service.

36. Timeline. ACS supports interim buildout milestones and requests a timeline that reflects its proposed ten-year term of support. As discussed above, ACS suggests that it needs two years to determine its broadband buildout plan before ACS can begin deployment. Accordingly, ACS suggests buildout milestones that are "backloaded" as compared with the model-based timeline – 30 percent completion by year four, 60 percent completion by year seven, and full completion by year ten.

37. Above the Commission adopted a 10-year term of support. The Commission also acknowledged the unique challenges that ACS confronts as a non-contiguous carrier building in Alaska.

However, the Commission also wants to ensure that ACS begins construction no later than 2019. Accordingly, the Commission adopts a timeframe that requires ACS to complete its planning by October 1, 2018, with the remaining time to complete deployment of voice and broadband-capable networks. As such, the Commission will require ACS to complete initial planning and submit its proposed list of census blocks and locations to the Commission by October 1, 2018. Thereafter, as explained above, the Commission will conduct an efficient challenge process for those locations in partially served blocks to determine final deployment locations, which the Commission anticipates will be completed during first quarter 2019. ACS will then be able to commence deployment in those partially served census blocks no later than the summer of 2019. Full completion of the planning process is not a requisite, however, for it to begin deployment in the high-cost census blocks not subject to a challenge process. The Commission emphasizes that ACS is not precluded from, and indeed it is encouraged to begin, extending broadband to unserved locations in those high-cost blocks (the high-cost blocks lacking an unsubsidized competitor according to the June 2015 FCC Form 477 data).

38. The Commission is not persuaded that ACS should only be subject to two intermediate milestones for the 10-year term. The Commission recently adopted evenly spaced interim deployment milestones for rate-of-return carriers electing to receive Phase II model-based support. For similar reasons, the Commission concludes here that annual interim milestones are appropriate for ACS. This will enable the Commission to monitor ACS' progress throughout the term of support. Accordingly, the Commission adopts the following timeline for offering broadband service meeting the Commission's requirements: 30 percent of all locations by the end of 2018, 40 percent by the end of 2019, 50 percent by the end of 2020, 60 percent by the end of 2021, 70 percent by the end of 2022, 80 percent by the end of 2023, 90 percent by the end of 2024, and all locations by the end of 2025.

39. Standard for Meeting Deployment Obligation. ACS asks that it be allowed to serve between 95-100 percent of its minimum required number of locations, with a reduction in support for the locations not served if those locations are identified by a date certain in the planning process. ACS argues this flexibility is needed due to the inaccuracy of the cost model to determine proper high-cost census

blocks in Alaska, and due to the lack of interest in building to these locations should ACS not deploy services there. ACS explains that while the substitution flexibilities will go a long way to correcting the alleged imprecisions of the cost model to provide service to those consumers that need it most, it simply is not enough flexibility.

40. In the December 2014 Connect America Order, the Commission allowed price cap carriers the flexibility of deploying to between 95-100 percent of required locations subject to a required refund of support based on the number of required locations left unserved at the end of the support term. The Commission recognized that there may be a variety of unforeseen factors, after the initial planning stage, that can cause significant changes as a network is actually being deployed in the field. The Commission balanced our goal of advancing the availability of broadband to these high-cost locations with this flexibility and adopted a metric to recover support. This metric was based on the assumption that many of the locations left unserved would have higher than the average costs calculated by the model. In particular, the Commission calculated the factor based on the average support for the top five percent of the funded locations nationwide compared to the average support for all funded locations. The Commission then divided that nationwide figure by one-half, in recognition that the average could vary widely between carriers and states.

41. Consistent with the general approach adopted for price cap carriers accepting model-based support in the December 2014 Connect America Order, the Commission accepts the ACS proposal and allow ACS the flexibility to build to between 95-100 percent of its minimum required locations, subject to the requirement to refund support based on the number of unserved locations as the end of the 10-year support term. Accordingly, the Commission establishes a similar metric for refunding support calculated specifically for Alaska. The average support for the top five percent of ACS high-cost locations is 8.2 times the average for all of ACS' funded high-cost locations. The Commission does not divide that figure in half, as this is an Alaska-specific and carrier-specific number. Therefore, should ACS fail to build to 100 percent of its required minimum locations at the end of its support term, the

Commission will require ACS to refund a support amount based on the number of locations left unserved times \$51,152 – the average per-location Phase II frozen support ACS receives multiplied by 8.2.

42. The Commission requires ACS to comply with our existing high-cost reporting and oversight mechanisms, unless otherwise modified as described below. In the April 2014 Connect America FNPRM, the Commission sought comment on how to monitor and enforce compliance by non-contiguous carriers receiving frozen support once the Commission determined their specific service obligations. The Commission asked about measures that must be in place to ensure that it has the ability to monitor compliance with these service obligations. The Commission asked whether there were considerations specific to non-contiguous areas that it should account for when determining whether these carriers have complied with their service obligations.

43. Annual Reporting Requirements. Pursuant to section 54.313 of the Commission's rules, ACS must continue to file its FCC Form 481 on July 1 each year. ACS supports monitoring and enforcement measures and did not request accommodations with regard to compliance standards. Further, consistent with the relief granted to other price cap carriers in the 2016 Rate-of-Return Reform Order, 79 FR 24282, April 25, 2016, the Commission also eliminates the requirement that ACS file the five-year service quality improvement plan and annual updates, as it instead will be filing annual progress updates throughout the term. The Commission also adopts the same reporting obligation for ACS as required of the model-based price cap carriers to report the total amount of Connect America Phase II support, if any, it used for capital expenditures in the previous calendar year.

44. Location Reporting Requirements. In the December 2014 Connect America Order, the Commission required all price cap carriers accepting model-based support to include in their annual reports a list of the geocoded locations to which they have newly deployed facilities using Connect America support in the prior year. The Commission also required those companies to report with their first list (i.e. the one due on July 1, 2016) geocoded locations where the carrier already was offering service meeting the Commission's requirements. The list must identify which locations are located in a Phase II-funded block and which locations are located in extremely high-cost census blocks. In the 2016

Rate-of-Return Reform Order, the Commission updated the Phase II location reporting obligations – moving this data collection out of the annual report and revising deadlines for submission. Specifically, instead of reporting geocoded location information in the annual report, due July 1 for the prior calendar year, the Commission concluded that it will serve the public interest for price cap carriers to report on deployment by March 1 every year with respect to the prior calendar year, rather than six months later. The Commission also required all rate-of-return ETCs to report annually to the Commission on the number of geocoded locations where they are offering 4/1 Mbps, 10/1 Mbps or 25/3 Mbps. The Commission directed the Bureau to work with USAC to develop an online portal that will enable all carriers to submit their geocoded information on a rolling basis throughout the year. Further, the Commission decided that price cap carriers will continue to make annual certifications that they are meeting their public interest obligations, but will do so when submitting the information to USAC by this deadline, rather than in their annual reports.

45. Additionally, price cap ETCs' geolocation data and associated deployment certifications no longer be are provided pursuant to the deadlines specified in section 54.313. The penalties in section 54.313(j) for failure to timely file that information do not apply absent additional conforming modifications to our rules. Therefore, as is the case for rate-of-return ETCs, the penalties for price cap ETCs to fail to timely file geolocation data and associated deployment certifications are located in new section 54.316(c).

46. The Commission adopts similar reporting obligations for ACS as a recipient of Phase II frozen high-cost support. ACS will be required to submit the requisite information to USAC no later than March 1 of each year, for locations where they offered service in the prior year. Similar to the rate-of-return carriers, ACS will be required to separately identify the number of locations where it is offering speeds of at least 10/1 Mbps or 25/3 Mbps. While ACS's deployment obligation is to offer at least 10/1 Mbps broadband to the requisite number of locations, depending on network design, some of those locations may receive better than 10/1 Mbps service, and the Commission sees value in tracking progress at the higher speed tier as well. As with other carriers subject to obligations to report their progress in

broadband deployment, ACS is encouraged to submit information on a rolling basis throughout the year, as soon as service is offered, to avoid filing all of its locations at the deadline.

47. Reductions in Support. Today, the Commission adopts specific defined deployment milestones for ACS. Based on the record before us, the Commission finds no reason to relax our compliance standards for ACS as a non-contiguous carrier electing frozen support. The table below summarizes the regime previously adopted by the Commission for non-compliance with defined deployment milestones.

Non-Compliance Measures

| Compliance Gap | Non-Compliance Measure |
|-----------------------|---|
| 5% to less than 15% | Quarterly reporting |
| 15% to less than 25% | Quarterly reporting + withhold 15% of monthly support |
| 25% to less than 50% | Quarterly reporting + withhold 25% of monthly support |
| 50% or more | Quarterly reporting + withhold 50% of monthly support for six months; after six months withhold 100% of monthly support and recover percentage of support equal to compliance gap plus 10% of support disbursed to date |

48. Appropriate Uses of Support. The Commission clarifies, at ACS's request, that ACS may use Phase II frozen support for middle mile costs and reasonable operation expenses, so long as it otherwise meets the obligations to offer service meeting the requirements of this Order to 31,571 locations. Recipients of model-determined support are free to use such support to defray the cost of middle mile transport necessary to deliver broadband service meeting the Commission's requirements to

end-user customers. The Commission sees no reason to treat ACS differently because it is receiving Phase II frozen support as opposed to Phase II support calculated by the cost model.

49. The Commission also finds that ACS's Phase II frozen support is sufficient to carry out its deployment obligations as well as maintain existing voice service in the high-cost and extremely high-cost census blocks in its territory, and the Commission clarifies that ACS may use its support for either such purpose.

III. PROCEDURAL MATTERS

50. This Order contains a modified information collection, which will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new information collection requirement contained in this Order. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, it previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission describes impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the Supplemental Final Regulatory Flexibility Analysis (FRFA) below, *infra*.

51. The Commission previously sent a copy of the December 2014 Connect America Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act and will supplement this filing with a copy of this Order.

52. As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, an Initial Regulatory Flexibility Analyses (IRFA) was incorporated in the Further Notice of Proposed Rulemaking adopted in November 2011 (USF/ICC Transformation FNPRM) and the Further Notice of Proposed Rulemaking adopted in April 2014 (April 2014 Connect America FNPRM) in this proceeding. The Commission included a Final Regulatory Flexibility Analysis (FRFA) in Appendix B of the December 2014 Connect America Order. This Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) supplements the FRFA to reflect the actions taken in this Order and conforms to the RFA.

53. In this Order, the Commission adopts tailored public service obligations for Alaska Communications Systems (ACS), a price-cap carrier serving Alaska, to support the deployment of voice and broadband-capable networks in Alaska.

54. In the USF/ICC Transformation Order, the Commission recognized that price cap carriers serving specific non-contiguous areas of the United States, including Alaska, face difference operating conditions and challenges from those faced by carriers in the contiguous 48 states. In April 2014, the Commission proposed to establish the same service obligations but sought comment the flexibility required for non-contiguous carriers to meet the standards. In December 2014, the Commission concluded tailored service obligations for each non-contiguous carrier was the best approach.

55. In this Order, the Commission adopts targeted changes to the price cap model-based support public service obligations to accommodate the unique circumstances of ACS service in Alaska. Specifically, the Commission makes an adjustment to the term of support, establish a minimum number of locations where service must be offered, establish a planning phase deadline, adopt revised interim deployment milestones, and allow a limited number of location substitutions – allowing ACS to use its support to provide service in locations that are in partially-served census blocks and “high-cost” locations in “low-cost” census blocks. The Commission establishes a challenge process for determining the substitute locations in partially-served census blocks, and amend the location certification requirement to effectively monitor substitutions in “low-cost” census blocks. The Commission also forbears from the federal high-cost universal service obligation of ACS to offer voice service in low-cost areas where it does not receive high-cost support, in areas served by an unsubsidized competitor, and in areas where ACS is replaced by another eligible telecommunications carrier (ETC).

56. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rule(s) as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rule(s) in this proceeding.

57. As noted above, a FRFA was incorporated into the December 2014 Connect America Order. In that analysis, the Commission described in detail the small entities that might be significantly affected by the rules adopted in the Order. Those entities may be found in a number of services including, e.g.: wired telecommunications carriers, local exchange carriers, incumbent local exchange carriers, competitive local exchange carriers, interexchange carriers, local resellers, toll resellers, wireless telecommunications carriers, broadband personal communications service, advanced wireless services, satellite telecommunications, cable companies and systems, cable system operators, internet service providers, and all other information services. In this Order, the Commission hereby incorporates by reference the descriptions and estimates of the number of small entities from the previous FRFA in this proceeding.

58. The rule changes in this Order will affect one entity, Alaska Communications Systems, which fits the descriptions of entities outlined in the FRFA.

59. The data, information and document collection required by the December 2014 Connect America Order as described in the previous FRFA in this proceeding is hereby incorporated by reference. The actions taken in this Order amend the collection by altering the reporting milestones, adding one reporting requirement, and adding one certification requirement.

60. In this Order, the Commission amends the reporting requirements by requiring ACS to file a report at the conclusion of its planning phase, and no later than October 1, 2018. This report will provide the Commission with a list of the proposed locations to which ACS intends to offer service over the 10-year support term.

61. In this Order, the Commission amends the interim milestones reports to accommodate the extended term. ACS will be provided support for a 10-year term and will be required to offer voice and broadband service meeting certain latency, data usage, speed and reasonably comparable rate obligations to a certain number of locations. Accordingly, ACS will be required to report that it has built 30 percent of all locations by the end of 2018, 40 percent by the end of 2019, 50 percent by the end of 2020, 60 percent by the end of 2021, 70 percent by the end of 2022, 80 percent by the end of 2023, 90 percent by

the end of 2024, and all locations by the end of 2025. Should ACS fail to meet these milestones, it will be subject to certain non-compliance measures, including support reductions and reporting.

62. Lastly, in this Order, the Commission amends the collection to include a new cost certification requirement. In that certification, ACS must certify that the capital investment cost incurred to newly extend service to a location in a “low-cost” census block is at least \$5,000. ACS may be required to maintain documentation regarding this certification. The Commission concludes that requiring this certification will ensure that the Commission can monitor compliance with the section 254(b) principle that “[c]onsumers in all regions of the Nation...including...those in...high cost areas, should have access to telecommunications and information services...”

63. The analysis of the Commission’s efforts to minimize the possible significant economic impact on small entities as described in the previous FRFA in this proceeding is hereby incorporated by reference. It is unchanged by this Order, save the addition of the reporting and certification obligations described above. This increased burden is outweighed by the importance of monitoring the use of the public’s funds and ensuring support is used for its intended purpose.

64. The Commission notes that the reporting and certification requirements it adopts for ACS are tailored to its unique circumstance. Additionally, the information that the Commission is requiring ACS report and certify is information it expects the company will already be tracking to ensure its system is built economically and effectively.

65. People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

IV. ORDERING CLAUSES

66. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 2, 4(i), 5, 10, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, and 405 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 155, 160, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, 405, 1302, and sections

1.1, 1.427, and 1.429 of the Commission's rules, 47 CFR 1.1, 1.427, and 1.429, that this Order, IS ADOPTED, effective thirty (30) days after publication of the text or summary thereof in the Federal Register, except for the certification in paragraph 33, which contains information collections subject to PRA review and SHALL BECOME EFFECTIVE immediately upon announcement in the Federal Register of OMB approval.

67. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch
Secretary.

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